HOUSE BILL NO. 475

AN ACT TO REENACT SECTIONS 73-38-1 THROUGH 73-38-36, MISSISSIPPI CODE OF 1972, WHICH ARE THE SPEECH PATHOLOGISTS AND AUDIOLOGISTS LICENSURE LAW; TO AMEND SECTION 73-38-38, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THE SPEECH PATHOLOGISTS AND AUDIOLOGISTS LICENSURE LAW; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 73-38-1, Mississippi Code of 1972, is reenacted as follows:

73-38-1. The State Board of Health, established and empowered by Section 41-3-1 et seq., shall discharge as additional duties and responsibilities the provisions of this chapter in the examination, licensing and regulation of persons who provide services in the areas of speech-language pathology and audiology.

SECTION 2. Section 73-38-3, Mississippi Code of 1972, is reenacted as follows:

73-38-3. The following definitions apply as used in this chapter, unless the context otherwise requires:

(a) "Board" means the Mississippi State Board of Health.

(b) "Council" means the Mississippi Council of Advisors in Speech-Language Pathology and Audiology as established in Section 73-38-11.

(c) "Person" means any individual, organization or corporate body, except that only an individual may be licensed under this chapter.

(d) "Speech-language pathologist" means an individual who practices speech-language pathology and who presents himself to the public by any title or description of services

(e) "Speech-language pathology" means the application of principles, methods and procedures for the measurement, testing, evaluation, prediction, counseling, instruction, habilitation or rehabilitation related to the development and disorders of speech, voice, language or for the purpose of evaluating, preventing, ameliorating or modifying such disorders and conditions in individuals and/or groups of individuals.

(f) "Audiologist" means an individual who practices audiology and who presents himself to the public by any title or description of services incorporating the words "audiologist," "hearing clinician," "hearing therapist," or any similar title or description of service.

(g) "Audiology" means the application of principles, methods and procedures of measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation or rehabilitation related to hearing and disorders of hearing for the purpose of evaluating, identifying, preventing, ameliorating or modifying such disorders and conditions in individuals and/or groups of individuals; and for the purpose of this subsection the words "habilitation" and "rehabilitation" include, but are not limited to hearing aid evaluation, and auditory training, and speech reading.

(h) "Speech-language pathology aide" means an individual who meets minimum qualifications which the council may establish for speech-language pathology aides, which qualifications shall be less than those established by this chapter as necessary for licensure as a speech-language
pathologist, and who works under the supervision of a licensed speech-language pathologist.

(i) "Audiology aide" means an individual who meets minimum qualifications which the council may establish for audiology aides, which qualifications shall be less than those established by this chapter as necessary for licensure as an audiologist, and who works under the supervision of a licensed audiologist.

(j) "ASHA" means the American Speech-Language-Hearing Association.

SECTION 3. Section 73-38-5, Mississippi Code of 1972, is reenacted as follows:

73-38-5. (1) Licensure shall be granted either in speech-language pathology or audiology independently. A person may be licensed in both areas if he meets the respective qualifications.

(2) No person shall practice or represent himself as a speech-language pathologist or audiologist in this state unless he is licensed in accordance with the provisions of this chapter.

SECTION 4. Section 73-38-7, Mississippi Code of 1972, is reenacted as follows:

73-38-7. Nothing in this chapter shall be construed as preventing or restricting:

(a) A physician from engaging in the practice of medicine in this state, or a person using an audiometer to test hearing under the direct supervision of a licensed physician, provided such person does not present himself to the public by any title or description of services incorporating the words "audiologist," "hearing clinician," "hearing therapist," or any similar title or description of services;

(b) Any person licensed as a hearing aid dispenser from measuring and testing hearing in relation to the fitting, usage and dispensing of hearing aids or rendering post fitting services
to his clients or using any title provided in Sections 73-14-1 through 73-14-47;

(c) Any person licensed in this state by any other law from engaging in the profession or occupation for which he is licensed;

(d) A person from being employed or working in a volunteer capacity without a license, as provided in this chapter, as a speech-language pathologist or audiologist by the government of the United States or by the governing authority of any school district or private or parochial school in this state, if such person performs speech-language pathology or audiology services solely within the confines or under the jurisdiction of the organization by which he is employed, or working in a volunteer capacity; however, such person may, without obtaining a license under this chapter, consult with or disseminate his research findings and other scientific information to speech-language pathologists and audiologists outside the jurisdiction of the organization by which he is employed; such person may also offer lectures to the public for a fee, monetary or other, without being licensed under this chapter; such person may additionally elect to be subject to this chapter.

(e) The activities and services of persons pursuing a course of study leading to a degree in speech-language pathology at a college or university if such activities and services constitute a part of the supervised course of study and that such person is designated speech-language pathology intern, speech-language pathology trainee, or by other such titles clearly indicating the training status appropriate to his level of training;

(f) The activities and services of a person pursuing a course of study leading to a degree in audiology at a college or university if such activities and services constitute a part of a supervised course of study and such person is designated audiology
intern, audiology trainee, or by any other such titles clearly indicating the training status appropriate to his level of training; or

(g) The performance of speech-language pathology or audiology services in this state by any person not a resident of this state who is not licensed under this chapter if such services are performed for no more than five (5) days in any calendar year and in cooperation with a speech-language pathologist or audiologist licensed under this chapter, and if such person meets the qualifications and requirements for application for licensure described in subsections (a) through (c) of Section 73-38-9; however, a person not a resident of this state who is not licensed under this chapter, but who is licensed under the law of another state which has established licensure requirements at least equivalent to those established by Section 73-38-9, or who is the holder of the ASHA Certificate of Clinical Competence in Speech-Language Pathology or Audiology or its equivalent, may offer speech-language pathology or audiology services in this state for no more than thirty (30) days in any calendar year if such services are performed in cooperation with a speech-language pathologist or audiologist licensed under this chapter; or

(h) Any person employed by a private industry or firm for the purpose of conducting hearing tests incident to the operations of such firm or industry relative to its employees and employment practices.

SECTION 5. Section 73-38-9, Mississippi Code of 1972, is reenacted as follows:

73-38-9. To be eligible for licensure by the board as a speech-language pathologist or audiologist and to be eligible for registration as a speech-language pathology aide or audiology aide, a person shall:

(a) Be of good moral character;
(b) (1) For speech-language pathologists or audiologists, possess at least a master's degree or its equivalent in the area of speech-language pathology or audiology, as the case may be, from an educational institution recognized by the board;

(2) For speech-language pathology aide or audiology aide, the board shall set minimum educational standards which shall be less than a bachelor's degree;

(c) For speech-language pathologists and audiologists, submit evidence of the completion of the educational, clinical experience and employment requirements, which requirements shall be based on appropriate national standards and prescribed by the rules and regulations adopted pursuant to this chapter;

(d) For speech-language pathologists and audiologists, pass an examination approved by the board. This examination may be taken either before or after the completion of the employment requirement specified pursuant to subsection (c) of this section;

(e) For speech-language pathology aides and audiology aides, no examination shall be required.

SECTION 6. Section 73-38-11, Mississippi Code of 1972, is reenacted as follows:

73-38-11. (1) There is established the Mississippi Council of Advisors in Speech-Language Pathology and Audiology under the jurisdiction of the Mississippi State Board of Health.

(2) The council shall be comprised of five (5) members. Two council members shall be speech-language pathologists and two council members shall be audiologists with the fifth council member being a licensed physician, board certified in otolaryngology. All council members who are speech-language pathologists or audiologists shall at all times be holders of active and valid licenses for the practice of speech-language pathology and audiology in this state and shall be holders of the ASHA Certificate of Clinical Competence in Speech-Language Pathology or Audiology or its equivalent.

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(3) One (1) member shall be appointed from each Supreme Court district as presently constituted; and two (2) members shall be appointed from the state at large. No more than two (2) members of the council shall be appointed from any one (1) Supreme Court district as presently constituted. Appointments made shall be for three-year terms, with no person being eligible to serve more than two (2) full consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year.

(4) Not less than sixty (60) days before the end of each calendar year, the Mississippi Speech-Language-Hearing Association will submit the names of at least three (3) persons for each speech-language pathologist or audiologist vacancy and the Mississippi Eye, Ear, Nose and Throat Association will submit the names of at least three (3) persons for an otolaryngologist vacancy occurring at the end of the calendar year. The board shall make all appointments of council members from the list of names submitted by each association within sixty (60) days after receiving the lists. In the event of a vacancy, the board shall, within thirty (30) days after such vacancy, appoint a person from the previous list of names submitted who shall fill the unexpired term.

(5) The council shall meet during the first month of each calendar year to select a chairman and for other appropriate purposes. At least one (1) additional meeting shall be held before the end of each calendar year. Further meetings may be convened at the call of the chairman or the written request of any two (2) council members. All meetings of the council shall be open to the public, except that the council may hold closed sessions to prepare, approve, grade or administer examinations, or upon request of an applicant who fails an examination, to prepare a response indicating any reason for his failure. The public shall be notified of meetings of the council through at least one
(1) newspaper of general circulation in the state and public
information channels not less than ten (10) calendar days before
such meetings are held.

(6) Three (3) members of the council shall constitute a
quorum for all purposes, but in no instance shall a meeting of
four (4) council members be considered a quorum if there is not at
least one (1) speech-language pathologist and one (1) audiologist
present.

SECTION 7. Section 73-38-13, Mississippi Code of 1972, is
reenacted as follows:

73-38-13. (1) The board shall have full authority to
investigate and evaluate each and every applicant applying for a
license to practice speech-language pathology or a license to
practice audiology with the advice of the council.

(2) The board shall have the authority to issue subpoenas,
examine witnesses and administer oaths, and shall, at its
discretion, investigate allegations or practices violating the
provisions of this chapter.

(3) The board shall adopt such rules and regulations not
inconsistent with the laws of this state as may be necessary to
effectuate the provisions of this chapter and may amend or repeal
the same as may be necessary for such purposes, with the advice of
the council.

(4) The conferral or enumeration of specific powers
elsewhere in this chapter shall not be construed as a limitation
of the general functions conferred by this section.

SECTION 8. Section 73-38-15, Mississippi Code of 1972, is
reenacted as follows:

73-38-15. (1) The administration of the provisions of this
chapter shall be financed from income accruing from fees, licenses
and other charges assessed and collected by the board and from
such other funds available to the board.
(2) The board shall receive and account for all funds received and shall keep such funds in a separate fund. Funds collected under the provisions of this chapter shall be used solely for the compensation and expenses of the council and the board and to administer the provisions of this chapter, which may include full or partial financing of continuing education programs promulgated by the council under Section 73-38-33. Such funds shall be subject to audit by the Auditor of the State of Mississippi.

(3) Members of the council shall receive no compensation for their services, but shall receive travel and other expenses necessarily incurred in the discharge of official duties.

SECTION 9. Section 73-38-17, Mississippi Code of 1972, is reenacted as follows:

73-38-17. (1) The board shall issue licenses and notices of renewal, revocation, suspension or reinstatement and shall publish annually the names of persons licensed under this chapter.

(2) The board shall publish and disseminate to all licensees, in an appropriate manner, the licensure standards prescribed by this chapter, any amendments thereto, and such rules and regulations as the board may adopt under the authority vested by Section 73-38-13 within sixty (60) days of their adoptions.

SECTION 10. Section 73-38-19, Mississippi Code of 1972, is reenacted as follows:

73-38-19. (1) A person eligible for licensure under Section 73-38-9 and desirous of licensure shall make application for examination to the board at least thirty (30) days prior to the date of examination upon a form and in such manner as the board shall prescribe.

(2) Any application shall be accompanied by the fee prescribed by Section 73-38-31, which fee shall in no case be refunded.
(3) A person who fails an examination may make application for reexamination if he again meets the requirements of subsections (1) and (2) of this section.

(4) A person certified by ASHA or licensed under the law of another state, a territory of the United States, or the District of Columbia as a speech-language pathologist or audiologist who has applied for examination under this section may perform speech-language pathology and audiology services in this state prior to a determination by the board that such person has successfully completed examination for licensure.

(5) Each application or filing made under this section shall include the Social Security number(s) of the applicant in accordance with Section 93-11-64, Mississippi Code of 1972.

SECTION 11. Section 73-38-21, Mississippi Code of 1972, is reenacted as follows:

73-38-21. (1) Each applicant for licensure under this chapter shall be examined by the board in written examination. Standards for acceptable performance shall be established by the board with the advice of the council.

(2) Applicants for licensure shall be examined at a time and place and under such supervision as the board may determine. Examinations shall be given at such places within this state as the board may determine at least twice each year and the board shall make public, in a manner it considers appropriate, notice of such examinations at least sixty (60) days prior to their administration, and shall appropriately notify all individual examination applicants of the time and place of their administration.

(3) The board may examine in whatever theoretical or applied field of speech-language pathology and audiology it considers appropriate and may examine with regard to a person's professional skills and judgment in the utilization of speech-language pathology or audiology techniques and methods.
(4) The board shall maintain a permanent record of all examination scores.

SECTION 12. Section 73-38-23, Mississippi Code of 1972, is reenacted as follows:

73-38-23. (1) The board shall waive the requirements of subsections (b) and (c) of Section 73-38-9 for those applicants for licensure who, on the effective date of this section, are actually engaged in this state in the practice of speech-language pathology or audiology, upon proof of bona fide practice presented to the board. However, any such applicant must meet the requirements of subsections (b) through (d) of Section 73-38-9 within five (5) years of the effective date of this section.

(2) The board may waive the examination for licensure of any applicant who shall present proof of current licensure in another state, including the District of Columbia, or territory of the United States which maintains professional standards considered by the council to be equivalent to those set forth in this chapter.

(3) The board shall waive the examination for licensure of any person certified as clinically competent by ASHA in the area for which such person is applying for licensure.

SECTION 13. Section 73-38-25, Mississippi Code of 1972, is reenacted as follows:

73-38-25. (1) The board shall issue a license to any person who meets the requirements of this chapter and who pays to the board the fees prescribed in Section 73-38-31.

(2) (a) An applicant who fulfills all the requirements for licensure except professional employment and/or examination or persons granted a waiver under subsection (1) of Section 73-38-23 may apply to the board for a temporary license.

(b) Upon receiving an application provided under subsection (2)(a), the board shall issue a temporary license which entitles the applicant to practice speech-language pathology or audiology under the supervision of a licensee with licensure in
the appropriate specialty while completing the requirements for licensure.

(c) No temporary license shall be issued by the board under this section unless the applicant shows to the satisfaction of the board that he is or will be supervised and trained by a person who holds a license in the appropriate specialty or unless the applicant is granted a waiver under subsection (1) of Section 73-38-23.

(d) The temporary license shall be effective for one (1) licensure period and may be renewed upon board approval.

(3) (a) Each person licensed under this chapter who supervises a speech-language pathology or audiology aide shall register the same with the board.

(b) The licensee who supervises aides is responsible for the services provided to the client by said aides and may suffer suspension, revocation or other appropriate penalty for failure to exercise his responsibilities in the supervision of aides.

(c) Speech-language pathology and audiology aides shall pay to the board a registration fee as prescribed in Section 73-38-31, subsection (1).

SECTION 14. Section 73-38-27, Mississippi Code of 1972, is reenacted as follows:

73-38-27. (1) The board may refuse to issue or renew a license, or may suspend or revoke a license where the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Such unprofessional conduct may result from:

(a) Obtaining a license by means of fraud, misrepresentation or concealment of material facts;

(b) Being guilty of unprofessional conduct as defined by the rules established by the board;
389 (c) Being convicted of a felony in any court of the
390 United States if the acts for which he is convicted are found by
391 the board to have a direct bearing on whether he should be
392 entrusted to serve the public in the capacity of a speech-language
393 pathologist or audiologist;
394 (d) Violating any lawful order, rule or regulation
395 rendered or adopted by the board;
396 (e) Violating any provisions of this chapter.
397 (2) The board may deny an application for, or suspend,
398 revoke or impose probationary conditions upon a license upon
399 recommendations of the council made after a hearing as provided in
400 this chapter. One (1) year from the date of revocation of a
401 license under this section, application may be made to the board
402 for reinstatement. The board shall have discretion to accept or
403 reject an application for reinstatement and may require an
404 examination for such reinstatement.
405 (3) A plea or verdict of guilty, or a conviction following a
406 plea of nolo contendere, made to a charge of a felony or of any
407 offense involving moral turpitude is a conviction within the
408 meaning of this section. After due notice and administrative
409 hearing, the license of the person so convicted shall be suspended
410 or revoked or the board shall decline to issue a license when:
411 (a) The time for appeal has elapsed;
412 (b) The judgment of conviction has been affirmed on
413 appeal; or
414 (c) An order granting probation has been made
415 suspending the imposition of sentence, without regard to a
416 subsequent order allowing the withdrawal of a guilty plea and the
417 substitution therefor of a not guilty plea, or the setting aside
418 of a guilty verdict, or the dismissal of the acquisition,
419 information or indictment.
(4) Within thirty (30) days after any order or act of the board, any person aggrieved thereby may appeal to the chancery court of the county where such person resides.

(5) Notice of appeals shall be filed in the office of the clerk of the court, who shall issue a writ of certiorari directed to the board, commanding it within ten (10) days after service thereof to certify to such court its entire record in the matter in which the appeal has been taken. The appeal shall thereupon be heard in the due course by said court, and the court shall review the record and make its determination of the cause between the parties.

(6) Any order, rule or decision of the board shall not take effect until after the time of appeal in the said court shall have expired. In the event an appeal is taken by a defendant, such appeal shall not act as a supersedeas, and the court shall enter its decision promptly.

(7) Any person taking an appeal shall post a satisfactory bond in the amount of Two Hundred Dollars ($200.00) for payment of any cost which may be adjudged against him.

(8) In addition to the reasons specified in subsection (1) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with such section.
with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

SECTION 15. Section 73-38-29, Mississippi Code of 1972, is reenacted as follows:

73-38-29. (1) Licenses issued under this chapter shall expire and become invalid at midnight.

(2) Every person licensed under this chapter shall, on or before the license expiration date, pay a fee for the biennial renewal of license to the board. The board may suspend the license of any person who fails to have his license renewed by the expiration date. After the expiration date, the board may renew a license upon payment of a fee to the board. No person who requests renewal of license, whose license has expired, shall be required to submit to examination as a condition to renewal, if such renewal application is made within two (2) years from the date of such expiration.

(3) A suspended license is subject to expiration and may be renewed as provided in this section, but such renewal shall not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other conduct or activity in violation of the order or judgment by which the license was suspended.

(4) A license revoked on disciplinary grounds is subject to expiration as provided in subsection (1) of this section, but it may not be renewed. If such license is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the fee for a license issued after the expiration date which is in effect on the last preceding regular renewal date before the date on which it is
reinstated. The procedure for the reinstatement of a license that
is suspended for being out of compliance with an order for
support, as defined in Section 93-11-153, shall be governed by
Section 93-11-157 or 93-11-163, as the case may be.

(5) Any person who fails to renew his license within the two
(2) years after the date of its expiration may not renew it, and
it may not be restored, reissued or reinstated thereafter, but
such person may apply for and obtain a new license if he meets the
requirements of this chapter.

SECTION 16. Section 73-38-31, Mississippi Code of 1972, is
reenacted as follows:

73-38-31. (1) The board shall assess fees for the following
purposes:

(a) Initial licensing;
(b) Renewal of licensure;
(c) License issued after expiration date;
(d) Late renewal payment penalty;
(e) Temporary license;
(f) Renewal of temporary license; and
(g) Registration of aides.

(2) Every person to whom a license is issued pursuant to
this chapter shall, as a condition precedent to its issuance, and
in addition to any application, examination or other fee, pay the
prescribed initial license fee.

(3) Fees prescribed in subsection (1) of this section shall
be exclusive and no municipality shall have the right to require
any person licensed under this chapter to furnish any bond, pass
any examination, or pay any license fee or occupational tax.

(4) Fees listed in subsection (1) of this section shall be
commensurate to the extent feasible with the cost of fulfilling
the duties of the board and council as defined by this chapter;
however, no individual fee shall exceed One Hundred Dollars
($100.00).
SECTION 17. Section 73-38-33, Mississippi Code of 1972, is reenacted as follows:

73-38-33. The board shall require the applicant for license renewal to present evidence of the satisfactory completion of continuing education requirements as determined by the board.

SECTION 18. Section 73-38-35, Mississippi Code of 1972, is reenacted as follows:

73-38-35. Any person who violates any provision of this chapter shall, upon conviction, be guilty of a misdemeanor and shall be punished by a fine of not more than One Thousand Dollars ($1,000.00) or imprisoned in the county jail for a period not exceeding six (6) months, or both.

SECTION 19. Section 73-38-36, Mississippi Code of 1972, is reenacted as follows:

73-38-36. All fees collected by the State Board of Health under this chapter and any penalties collected by the board for violations of this chapter shall be deposited in a special fund hereby created in the State Treasury and shall be used for the implementation and administration of this chapter when appropriated by the Legislature for such purpose.

SECTION 20. Section 73-38-38, Mississippi Code of 1972, is amended as follows:


SECTION 21. This act shall take effect and be in force from and after July 1, 2002.